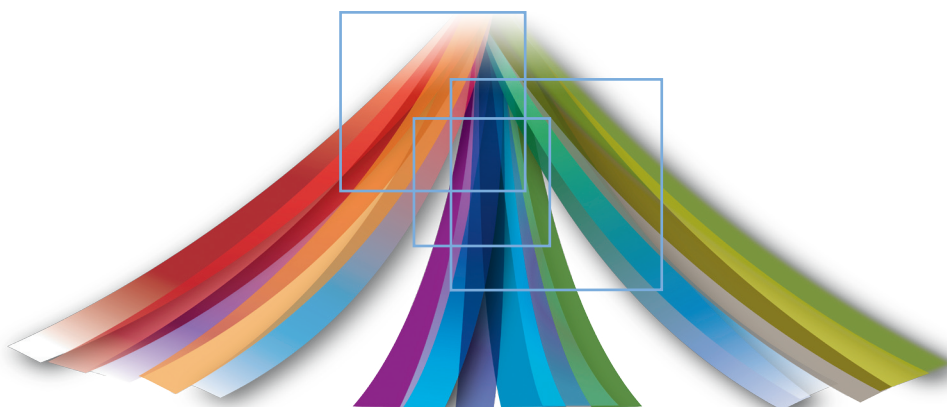


GLOBAL JOBS PACT POLICY BRIEFS



International
Labour
Organization



PROTECTING MIGRANT WORKERS BEYOND THE CRISIS

1. Executive summary

The Global Jobs Pact (GJP) has identified migrant workers as one of the vulnerable groups and stresses the fact that specific policy measures are needed to counter the negative effects of the crisis on migrant workers. Migrant workers do not always enjoy the same rights and protection as the local workforce and economic recession generally means additional vulnerability to them, with shrinking employment opportunities and deteriorating working conditions. Various destination countries have responded to the crisis by making new immigration more difficult, protecting labour markets for native-born workers, clamping down on migrants in irregular situations and encouraging the return of migrant work-

ers; while a number of countries of origin have made efforts to explore new labour markets for their workers, protect the rights of those already abroad, and facilitate the reinsertion of returnees. Efforts to counter the effects of the crisis on migrant workers should focus on protecting them from discrimination and poor working conditions, which is also in the interest of well functioning labour markets, and on helping with their reinsertion whenever they opt for return – voluntarily or for lack of other options. Looking at the long-term, conveying the right messages, reinforcing rights, and capitalizing on opportunities are recommendations for dealing with the policy challenges created by the crisis.

2. Description of the policy challenges

Shrinking employment opportunities

With the slowdown of the economy, employment opportunities in destination countries are declining. The extent and depth of the impact on migrant workers depends upon the destination country and the sector of employment. Not all countries or sectors have witnessed the same level of downturn. Construction, manufacturing and the hotel and catering industry employ large numbers of migrants and are all sectors particularly affected by the crisis. Migrant workers' skill level and gender also determine the extent to which they are vulnerable to job losses -- since they are considered easily replaceable--, highly skilled workers also face unemployment and fewer overseas employment opportunities. It appears that women migrant workers may suffer

somewhat less from the crisis than male migrants because they tend to work in sectors less affected (health, domestic care, education). No mass returns of migrant workers have been observed despite shrinking employment opportunities in host countries, yet new outflows from some origin countries have slowed (e.g. from Mexico, a major country of origin), with potential migrants preferring to wait out the crisis in their home countries rather than taking the risk of unemployment at destination.

Poorer working conditions

The economic crisis affects not only the volume of employment in general but also its quality. Migrant workers being employed in a higher proportion than nationals in the

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so-called “3D” (dirty, dangerous and degrading) jobs, the crisis is likely to entail a worsening in their working and OSH conditions. In fact, migrants may be forced to accept lower wages or poorer working conditions to retain their job. Increasing informalisation of work and cutbacks in social protection benefits are likely responses affecting migrants in general. Migrants may also have incentives to overstay and fall into irregular status, increasing their vulnerability.

Discrimination, xenophobia and racism

Reduced demand for labour, as a result of the crisis, leads to an increase in competition for jobs, and some countries

opt to protect their labour markets for native-born workers. Where protectionist attitudes and economic insecurity prevail, migrants easily become scapegoats; xenophobic sentiments, racism and discrimination against migrant workers rise.

Decline in remittances flows

Higher unemployment among migrants and fewer migration opportunities suggest a fall in remittances which in turn could put poverty reduction and economic stability at risk in some countries that are heavily dependent on remittances.

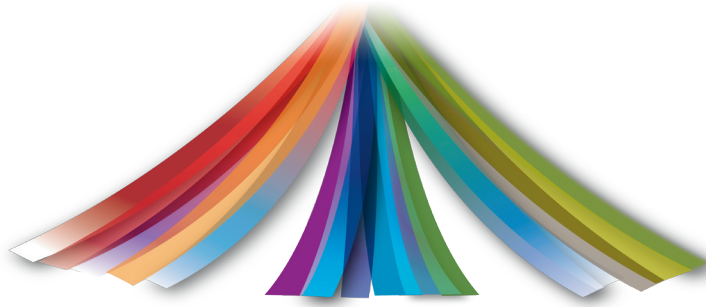
3. Policy reactions to the crisis

Restrictive labour migration policies

A number of destination countries have responded to the crisis by taking steps to decrease the inflow of migrant workers, often as a result of public pressures during the economic crisis. Generally speaking, policy-makers have tried to regulate migrant inflows by : adjusting numerical

limits (quotas, targets, caps); tightening labour market tests; limiting possibilities to change status and to renew permits; applying supplementary conditions to non-discretionary flows (i.e. family unification and humanitarian flows); and promoting return migration. Further, a number of countries have intensified their efforts to curb irregular migration.

Level of change	Examples of policy changes	Country examples
New rules	New programmes are introduced	Return programmes in the Czech Republic, Japan and Spain
Adaptation of rules	Points systems raise the “pass mark”	United Kingdom : Tier 1 of the Points Based System (PBS)
	Criteria for labour market tests become tighter	United Kingdom : Tier 2 of the PBS United States : H-1B Program
	Shortage occupation lists are reduced	Australia : Critical Skills List Spain : Regime General
	Numerical limits (quotas, targets, caps) are reduced	Italy : entry quota Spain : Contingente
Application of rules	Labour inspection becomes more frequent/ targets sectors and workplaces with a high concentration of migrants	French high profile worksite raids



Clear patterns or reasons for variation in policy responses are not discernible, but it is safe to say that only countries with a significant recent influx of migrants have taken high profile measures at all. The trend was for reactions to be in the form of an adaptation and tighter application of existing rules. This is understandable as legislative reforms, especially in an area as sensitive as migration policy, tend to be lengthy processes. They need preparations and negotiations.

Reactions by countries of origin

To protect migrant workers, countries of origin have opted for three types of policy measures : they have launched programmes to facilitate the reinsertion of returnees in

their labour markets; taken measures to ensure or extend the protection of the rights of their migrant workers; or explored new labour markets, less affected by the crisis, for their workers. For example, the Philippines announced a range of policy measures provided to their returnees : loans, assistance in finding lucrative employment by creating jobs or in new external markets, economic assistance packages, retraining programmes, giving access to entrepreneurship programmes to returning migrants. The Moroccan government intensified diplomatic efforts to resolve problems caused by the loss of employment of Moroccan nationals, strengthened social services in embassies, and appointed committees in consular missions and embassies to monitor the situations in destination countries.

4. Policy options and recommendations

The current crisis may be an opportunity to improve migration policies. International cooperation, including between countries of origin and destination, can be helpful in devising sustainable policies that avoid short-sightedness and look beyond the crisis. As the economic crisis has differentially impacted migrant workers' employment and migration opportunities, in crafting effective policies policy makers ought to consider these differences. A rights-based approach to labour migration governance should be at the centre of a concerted policy response to mitigate the economic and social impact of the crisis on migrant workers. Decent work and the promotion of equal treatment between migrant workers and nationals need reinforcement. This is particularly true where shrinking employment leads to a focus on job creation at the price of the quality of jobs and the protection of workers. The Migration for Employment Convention (revised), 1949 (No. 97), the Migrant Workers (supplementary Provisions) Convention, 1975 (No 143), and their accompanying Recommendations Nos. 86 and 151 as well as the 2006 ILO Multilateral Framework on Labour Migration offer valuable guidance for policy design.

Some specific measures can be considered :

Look at the longer term :

- Labour migration policies in countries of destination need to take account of labour demand in specific

sectors and occupations. This is to ensure that labour needs of enterprises are met in conditions of regularity. Ignoring sectoral and occupational demand may result in inducing irregular migration. The involvement of social partners in the policy formulation will greatly enhance its effectiveness.

- Assisted voluntary return programmes tend to linger on as the historical experience of the Netherlands, France and Germany shows. European return programmes emerged for the first time after the 1973 oil crisis had led to a recession. All of them had a long life span (some 10 years) and were considered unsuccessful. To phase out such programmes rapidly could be appropriate where migrants have made an effort to integrate and their labour may be needed again soon.
- Where there is recognition that labour shortages are likely to persist beyond the crisis, it will also make sense to allocate some of the scarce resources to integration measures. For example Japan, in response to rising unemployment among foreigners of Japanese descent, has invested in language courses and service centres for this segment of the population as well as in educational measures for the migrants' children. In Germany, all immigrants with foreign diplomas were granted the right to have their qualifications assessed, with bridging measures offered where degrees are not fully recognized.



- Social protection measures for migrant workers need to be strengthened, and arrangements made for the portability of the social security contributions. Often migrant workers are employed in the informal economy and do not benefit from social protection. Origin and destination countries can cooperate to ensure workers' protection and the upholding of their rights.

Convey the right messages :

- Migrant workers have contributed to creating wealth and development in their host countries but the crisis has produced a climate of protectionism, an environment where this proposition is being challenged. One needs to devise strategies that reinforce the recognition of the positive role of migrant workers. The media can play a major role in this respect, e.g. in showcasing migrant workers' contributions during prime time national and/or local news.
- Where countries have put in place economic stimulus packages, they should make sure that regular migrant workers benefit from these programmes without any discrimination. This is in line with international labour standards; in the interest of an efficient operation of labour markets, the best utilization of available labour; and a signal that an unfair treatment of migrants will not be tolerated.

Reinforce rights :

- It will be crucial to reinforce the respect for rights at all levels : national labour legislation, international labour standards, and general human rights law. This will include to closely monitor the application of labour laws to migrant workers (conditions of work, minimum employment standards, rights arising from past work, etc.); check whether labour laws and labour migration policies correspond to international labour standards;

and in efforts to curb irregular migration, strictly observe international human rights law.

- Besides monitoring, raising awareness about existing rights can greatly increase the effective protection of migrant workers. It is a well known fact that migrants are often not aware of their rights. Networks of diaspora lawyers, as recently created by Morocco as one of the responses to the crisis, can help informing migrants; and network members can exchange successful defence practices among themselves.

Capitalize on opportunities :

- Remittances have usually been thought to be countercyclical with the GDP in recipient countries, with migrant workers expected to increase support to their families in times when family income back home shrinks. However, remittances also respond to the state of economic activity in the host countries as the current crisis illustrates. Indeed, it appears that remittances (along with trade, foreign direct investments and private equity flows) have contributed to transmitting the effects of the host economy contractions to the recipient economies. These contractions then hamper growth and efforts in poverty reduction in a number of developing countries with significant remittances inflows. Particularly in this context, it will be important to capitalize on remaining opportunities, e.g. by reducing transfer costs and making sure that remittances are productively invested in diversified and innovative activities, e.g. in the creation of green jobs.
- Social remittances represent another opportunity that origin countries can mobilize, the crisis having created goodwill among diaspora members. One example is knowledge transfers via short-term technical assistance provided by diaspora members in their countries of origin.



5. Further reading and resources

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